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Bibliography

Celebrity Licensing and the Right of Publicity: Navigating New Frontiers of Opportunity and Liability by Jonathan Faber. **Licensing Journal**, September 2012, Vol. 32, Iss.8, p1-7 (7pgs)

The article discusses the celebrity licensing and the related right to publicity in the U.S. It is mentioned that celebrity licensing usually relates to the use of celebrity pictures on products or for advertising but incorporates many intellectual property rights and restrictions. Also, right to publicity can be defined as the right to control the commercial use of one's identity. Additionally, the right is recognized by the common law in the country.

Chasing One's Tail: Virtual Objects as Intangible Assets, Intangible Property or Intellectual Property? by Katja Weckström. **Journal of Internet Law**, December 2012, Vol.16, Iss.6, p.3-14 (12pgs).

The article discusses several court cases from the Netherlands, Finland, and the U.S. to assess whether virtual objects can be classified as intangible assets, intellectual property or intangible property. It explores the rights positions in virtual worlds, whether real world principles and rules can be applied to breaches, and whether virtual products can be subject to theft. It also compares theft and hacking and theft and intellectual property.

Closing Pandora's Box: Proposing a Statutory Solution to the Supreme Court's Failure to Adequately Protect Private Property by Ryan Merriman. **Brigham Young University Law Review**, 2012, p.1331-1359, 1361-1368.

It is by no means an exaggeration to characterize the Supreme Court's 2005 *Kelo v. City of New London* decision as its most unpopular ruling in more than a century. In *Kelo*, the Supreme Court upheld a municipal redevelopment plan that resulted in the forced transfer of nine residents' homes to a private development corporation. The Court held that the increased tax revenue and other secondary benefits to the city constituted a "public use" under the Fifth Amendment, justifying the condemnation and forced transfer of the residents' homes. This Comment surveys enacted state legislation and proposed federal legislation to evaluate the validity of these claims. Ultimately, it finds the vast majority of these efforts wanting and proposes the creation of a federal cause of action modeled loosely on shareholder derivative suits. Unlike proposed federal legislation and many state statutes, this approach avoids burdening federal and local law enforcement, makes economic-development takings infeasible in most instances, and also allows states the flexibility they need to deal with actual blight.

Copyright: Regulation Out of Line with Our Digital Reality? by Abigail J. McDermott. **Information Technology and Libraries (Online)** 31. 1, March 2012, p.7-20.

This paper provides a brief overview of the current state of copyright law in the United States, focusing on the negative impacts of these policies on libraries and patrons. The article discusses four challenges current copyright law presents to libraries and the public in general, highlighting three concrete ways intellectual property law interferes with digital library services and systems. Finally, the author suggests that a greater emphasis on copyright literacy and a commitment among the library community to advocate for fairer policies is vital to correcting the imbalance between the interests of the public and those of copyright holders.

Costly Intellectual Property by David Fagundes and Jonathan Masur. **Vanderbilt Law Review**, Vol.65, Iss.3, April 2012, p.675, 677-734.

Though they derive from the same constitutional source of law, patents and copyrights vest very differently. Patents arise only after an applicant successfully navigates a cumbersome and expensive examination, while copyrights arise costlessly upon mere fixation of a work in a tangible medium of expression. Each of these vesting systems has drawn much criticism. Some scholars argue that the patent examination system imposes heavy costs while failing to eliminate invalid patents. Each of these claims, though, fails to take into account the social benefits (or costs) associated with the screening mechanism (or lack thereof) required for owners to perfect their rights. The social welfare implications of process costs have been studied in other settings, but largely ignored in the intellectual property literature. In this article, the authors leverage the insights of the process costs literature to craft a novel theory showing why the much-maligned patent and copyright vesting systems are actually socially beneficial.

Distribution Law of the United States by David A. Beyer. **Franchise Law Journal**, Vol.32, Iss.1 Summer 2012, p.51-52.

In one place, a reader can answer questions about distribution issues that otherwise would require research into vastly different areas of law, such as intellectual property, antitrust, product liability, commercial codes, and, of course, franchise laws. Chapter 3 not only introduces the concept of franchise and business opportunity sales regulation, but also discusses the variety of laws that impact the recruitment process for other participants in the supply chain, such as employees, independent sales representatives, and distributors.

Exchanging Information Without Intellectual Property by Michael J. Burstein. **Texas Law Review**, Vol. 91, Iss.2, 2012, p. 227-282.

Contracting over information is notoriously difficult. Nearly fifty years ago, Kenneth Arrow articulated a "fundamental paradox" that arises when two parties try to exchange information. To complete such a transaction, the buyer of information must be able to place a value on the information. But once the seller discloses the information, the buyer can take it without paying. The conventional solution to this disclosure paradox is intellectual property. This article explains that, contrary to the conventional account of the disclosure paradox, information is not always nonexcludable and is not always a homogeneous asset. Instead, information is complex and

multifaceted, subject to some inherent limitations but also manipulable by its holders. Intellectual property is therefore not necessary to promote robust markets for information and is, in fact, just as contingent and context-specific a solution to the paradox as the alternatives described here.

How to Create Productive Partnerships with Universities by Markus Perkmann and Ammon Salter. **MIT Sloan Management Review**, Vol.53, Iss.4, Summer 2012, p.79-88.

University-business collaborations are an increasingly important source of research and development for many companies. Yet despite their importance, the authors argue that many companies take much less care managing these relationships than they do those with their vendors or customers. As a result, business-academic collaborations often fail to achieve as much as they might. By taking a more structured approach, companies can improve the performance of their academic research partnerships, the authors say. To leverage value from universities, the authors argue that business executives need to consider two key dimensions: whether the time horizon of the collaboration is short-term or long-term, and the degree of disclosure of the results of the partnership. Openness facilitates rapid publishing, which constitutes the lifeblood of public science and has the advantage of reducing transaction costs related to intellectual property. For companies, however, protection of research results facilitates the commercialization of discoveries. Typically, the authors suggest, there are four basic models of successful collaboration: 1. The idea lab, where managers put aside their desire for secrecy and work with academics on short term projects to create new options and contacts; 2. The grand challenge, where managers and academics work together on long-term projects to create a new knowledge base that will be shared in the public domain; 3. The extended workbench, where managers work rapidly with university partners on proprietary problems and solutions; and 4. Deep exploration, where the company creates rich and long-lasting relationships with university partners that, in turn, offer the business rights of first refusal to license collaboration results. The authors describe the most important characteristics of each model, give examples of companies that have used such a model and suggest situations where each would work best, as well as managerial best practices that can improve the odds of a successful collaboration.

How to Make Almost Anything: The Digital Fabrication Revolution by Neil Gershenfeld. **Foreign Affairs**, November/December 2012, p.43-57.

A new digital revolution is coming, this time in fabrication. It draws on the same insights that led to the earlier digitizations of communication and computation, but now what is being programmed is the physical world rather than the virtual one. Digital fabrication will allow individuals to design and produce tangible objects on demand, wherever and whenever they need them. Widespread access to these technologies will challenge traditional models of business, aid, and education. The revolution is not additive versus subtractive manufacturing; it is the ability to turn data into things and things into data. A final concern about digital fabrication relates to the theft of intellectual property. Patent protections on digital fabrication designs can work only if there is some barrier to entry to using the intellectual property and if infringement can be identified. Many years of research remain to complete this vision, but the revolution is already well under way.

*International intellectual Property-Berne Convention-Treaty Implementation-Uruguay Round Agreements Act-Copyright Clause-First Amendment-Freedom of Speech by Anupam Chander, Madhavi Sunder and Uyen Le. **The American Journal of International Law**, Vol.106, Iss.3, July 2012, p.637-642.*

In the case of *Golan v. Holder*, the US Supreme Court held that section 514 of the Uruguay Round Agreement Act, which had been enacted to implement the Berne Convention for the Protection of Literary and Artistic Works, neither exceeds Congress's authority under the Copyright Clause nor violates the First Amendment's free speech guarantees. Section 514 belatedly granted foreign works currently in the public domain the copyright protection they would have enjoyed had the United States fully complied with its obligations after joining the Convention in 1989. Those obligations included agreement by the 165 member states to provide a minimum level of copyright protection to authors from other member states. The Convention further requires members to protect foreign works unless their copyright protection has expired and fallen into the public domain in the country of origin. The United States, however, did not extend protection to many foreign works under the Convention until it became a member of the World Trade Organization in 1994. *Golan* worried that if Congress could restore copyright in works that had already entered the public domain, nothing could stooop Congress from instituting successive limited periods of protection, in effect creating perpetual copyright.

*Moral Rights: Well-Intentioned Protection and Its Unintended Consequences by Lindsey Mills. **Texas Law Review**, Vol. 90, Iss.2, 2011, p.443-464.*

The issue of moral rights protection has long been one of the most intensely debated issues in American property law. In 1990, Congress ceased its decades-long resistance to providing federal moral rights protection and enacted the Visual Artists Rights Act (VARA) as a step toward compliance with Article 6bis of the Berne Convention for the Protection of Literary and Artistic Work, which the US joined in 1988. Despite the ancient philosophic and natural-law arguments advanced for moral rights protection, moral rights protection has no place in the US, let alone as part of the Copyright Act, which is principally aimed at promoting artists' and authors' incentives to create by granting them a temporary monopoly right over their work. The right of integrity is the most controversial of the moral rights for several reasons. The importation of federal statutory moral rights protection into the US through the enactment of VARA spawned a steady stream of criticism regarding the statute's narrow scope -- criticism that continues to emerge today, more than two decades after VARA's enactment

*Performing Rights Licensing in the United States: A World of Multiple Choices, Considerations, and Results by Todd Brabec and Jeff Brabec. **The Entertainment and Sports Lawyer**, Vol.30, Iss.1, Spring 2012, p.8-11.*

Music users (those that pay the license fees) include the major television networks, U.S. local television and radio stations, pay cable services (HBO, Showtime), basic cable (USA Network,

MTV, VH-1, A&E), online streaming services, concert halls, websites, the hotel industry, colleges and universities, nightclubs, bar and grills, theme parks, and many others. [...]in most situations where music is being performed (with the exception of the home), a user is paying a license fee, an organization is collecting those fees, and writers and music publishers are being paid royalties for the performances of their copyrighted works.

Picking on the Little Guy? Asserting Trademark Rights against Fans, Emulators, and Enthusiasts by David E. Texas Law Review, Vol.90, Iss.5, 2012, p.1259-1281.

This article aims to explore the actions of trademark owners against subsets of infringers referred to here as fans, emulators, and enthusiasts -- groups that use the mark not to create a separate brand identity of their own but rather to show their support for or imitate the original brand owner. These groups include sports fans, youth and amateur sports teams that use official team names and logos, and enthusiasts that use trademarks in their domain names or to identify their group. While the law allows a trademark owner to enforce its rights in these situations, there are costs involved in such enforcement -- costs to the trademark owner asserting its rights, costs to the allegedly infringing party, and costs to the community and society as a whole. While costs are inherent in any trademark-enforcement scenario, there is a problem if the costs are not offset by a corresponding benefit.

Re-Examining Limitation of Liability Provisions by Kit Burden and John McKinlay. Intellectual Property & Technology Law Journal, February 2012, Vol.24, Iss.2, p.16-19 (4pgs).

The article discusses the limitations of liability provisions in the context of outsourcing services contracts and clauses pertaining to intellectual property rights infringement in the U.S. It explores the concept of indirect losses and the limitation of liability clauses in an outsourcing services contract. However, it advises the need for companies engaged in outsourcing to create a consensus on when and how the limitations of exclusions apply throughout the whole negotiation process.

Rethinking Intellectual Property Rights by Suran Ariel Aaronson. International Economy, Fall 2012, Vol.26, Iss.4, p.66-69 (4pgs).

The article discusses the approach of the U.S. and other countries in working with governments to reform the global system of protecting intellectual property rights. It notes the restrictions launched by countries on trade including both traditional and more opaque regulations such as procurement or administrative procedures for imports. It suggests the need for U.S. President Barack Obama to reinvigorate the country and global economies by assessing issues on intellectual property rights.

Towards a Critical IP Theory: Copyright, Consecration, and Control by John Tehranian. Brigham Young University Law Review, 2012, Iss. 4, 2012, p.1237-1295.

This Article identifies and builds on an emerging literature -- one that it refers to as "critical intellectual-property" scholarship -- to introduce a framework for studying just how copyright transcends its small corner of the legal universe by shaping social structures and regulating individual behavior as part of a larger hegemonic project. Part II of this Article examines the link between intellectual-property rights and knowledge-power systems. Specifically, it frames the theoretical underpinnings of this study of copyright law in cultural studies. Part III focuses on the genesis of rights and the way in which the vesting of copyright protection beatifies certain forms of cultural production. Part IV turns its attention to the assertion of rights. Finally, Part V focuses on how copyright interests are vindicated in the adjudicative process.

Trade and the Internet by Susan Ariel Aaronson. ***The International Economy***, Vol.26, Iss.1, Winter 2012, p.75-77.

According to the U.S. Trade Representative, the Anticounterfeiting Trade Agreement, signed by the United States, Australia, Canada, Korea, Japan, New Zealand, Morocco, and Singapore on October 1, 2011, is designed to "address the problem of infringement of intellectual property rights in the digital environment... in a manner that balances the rights and interests of the relevant right holders, service providers, and users." [...] Congress is considering bipartisan legislation that would allow the U.S. Department of Justice, as well as copyright holders, to seek court orders against websites accused of enabling or facilitating copyright infringement.

Who Owns My Words? Intellectual Property Rights as a Business Issue by Daphne A. Jameson. ***Business Communication Quarterly***, June 2011, Vol.74, Iss.2, p.210-215 (6pgs).

The article looks at intellectual property rights from a business perspective. The intellectual property ownership dispute between Starwood Hotels & Resorts and the Hilton Hotel Corporation in 2008 is reviewed, noting the investigation of Hilton executives by the U.S. Department of Justice and the multi-million-dollar lawsuit settled in December 2010. The music album "All Day," by Girl Talk is also discussed for using unauthorized samples from 373 previously recorded songs, noting that creator Gregg Gillis did not seek permission to use the song segments due to his understanding of fair use copyright law.

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Webliography

American Bar Association (ABA) - Section on Intellectual Property

<http://www.abanet.org/intelprop/>

ABA educates and informs members about Intellectual Property Rights and related issues.

American Intellectual Property Law Association (AIPLA)

<http://www.aipla.org/>

AIPLA shapes U.S. intellectual property policy through its work on legislation, federal regulations, and intellectual property cases in the U.S. courts.

American Society of Composers, Authors, and Publishers

<http://www.ascap.com>

Internet site for this membership association of over 315,000 composers, songwriters, lyricists, and music publishers provides information aimed at protecting the rights of its members by licensing and paying royalties for the public performance of their copyrighted works.

Association of American Publishers, Inc.

<http://www.publishers.org>

Internet site for the principal trade association of the U.S. book publishing industry contains information on copyright and electronic publishing.

Copyright Clearance Center (CCC)

<http://www.copyright.com/>

CCC helps organizations comply with U.S. copyright law.

Copyright Society

<http://www.csusa.org/>

The Society fosters the study of copyright law in literature, music, art, the theatre, motion pictures, and other forms of intellectual property.

University of New Hampshire School of Law – The IP Mall

<http://www.ipmall.info/>

University of New Hampshire Law trains intellectual property, commerce, and technology professionals with skills to meet marketplace needs.

International Intellectual Property Alliance

<http://www.iipa.com>

IIPA is a private sector coalition, formed in 1984, of trade associations representing U.S. copyright-based industries in bilateral and multilateral efforts working to improve international protection and enforcement of copyrighted materials and open up foreign markets closed by piracy and other market access barriers.

International Intellectual Property Institute (IPI)

<http://www.iipi.org/>

IPI promotes sustainable economic growth in all countries through the use of healthy intellectual property systems.

Software & Information Industry Association (SIIA) - Anti-Piracy

<http://www.spa.org/piracy/default.asp>

SIIA, a trade association for the software and digital content industry, provides a balance between education and enforcement of software piracy.

Stanford University – Copyright and Fair Use

<http://fairuse.stanford.edu>

Includes such primary materials as statutes, judicial opinions, and treaties and conventions; current legislation; and an overview of copyright law.

U.S. Copyright Office: The Library of Congress

<http://www.copyright.gov>

The office serves the community of creators and offers key publications which include informational circulars, links to copyright law and homepages of other copyright-related organizations; news, Congressional testimonies, press releases and latest regulations etc.

U.S. Department of Commerce - U.S. Patent and Trademark Office

<http://www.uspto.gov>

Internet site provides access to information on intellectual property as related to patents and trademarks, including rules, advice, definitions, submission forms, fees, and more.

U.S. Department of State - Intellectual Property Enforcement

<http://www.state.gov/e/eb/tpp/ipe/>

The Office of International Intellectual Property Enforcement (IPE) promotes U.S. innovation by advocating for the effective protection and enforcement of intellectual property rights (IPR) around the world.

United States Trade Representative – Intellectual Property

<http://www.ustr.gov/trade-topics/intellectual-property>

Intellectual Property Section controls piracy through strong laws and effective enforcement worldwide and ensures protection for the future as technology develops.

World Trade Organization (WTO) - Trade-Related aspects of Intellectual Property Rights, (TRIPS)

http://www.wto.org/english/tratop_e/trips_e/trips_e.htm

The TRIPS webpage provides information on intellectual property in the WTO, news and official records of the activities of the TRIPS Council, and details of the WTO's work with other international organizations in the field.

World Intellectual Property Organization (WIPO)

http://www.wipo.int/sme/en/documents/ip_pharma.html

WIPO is a specialized agency of the United Nations, dedicated to developing a balanced and accessible international intellectual property (IP) system, which rewards creativity, stimulates innovation and contributes to economic development while safeguarding the public interest.

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FindLaw.Com - Section on Intellectual Property

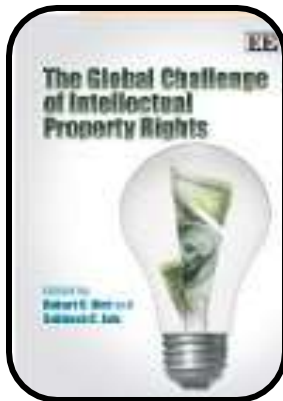
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Legal Information Institute – Cornell University Law School

<http://www.law.cornell.edu/>

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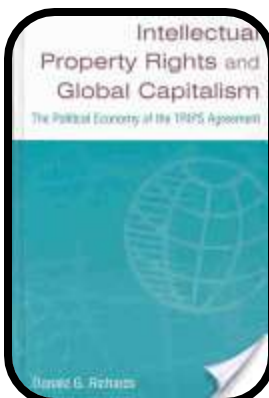
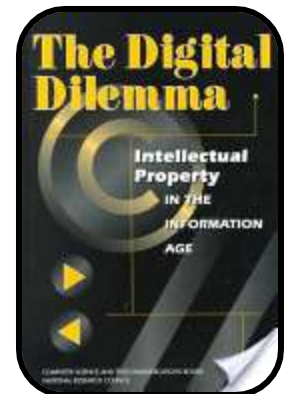
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The Global Challenge of Intellectual Property Rights
edited by Robert C. Bird and Subhash C. Jain. Cheltenham, 2008

The Digital Dilemma: Intellectual Property in the Information Age.

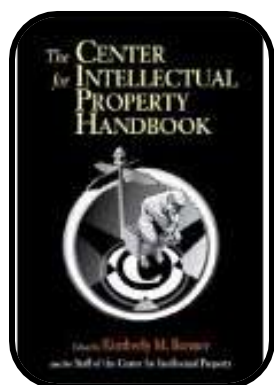
Committee on Intellectual Property Rights and the Emerging Information Infrastructure, Computer Science and Telecommunications Board, Commission on Physical Sciences, Mathematics, and Applications, National Research Council, National Academy Press, 2000.



Intellectual Property Rights and Global Capitalism : The Political Economy of the TRIPS Agreement
by Donald G. Richards. Armonk, 2004.

**Steal This Idea : Intellectual Property Rights and the Corporate
Confiscation of Creativity**

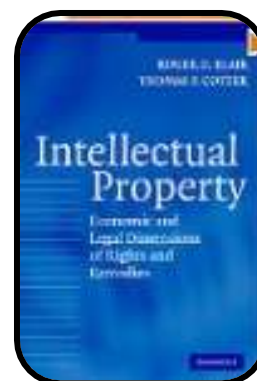
by Michael Perelman. Palgrave, 2002.



The Center for Intellectual Property Handbook edited
by Kimberly M. Bonner and the staff of the Center for Intellectual
Property. Neal-Schuman Publishers, 2006.

**Intellectual Property: Economic and Legal Dimensions of Rights and
Remedies**

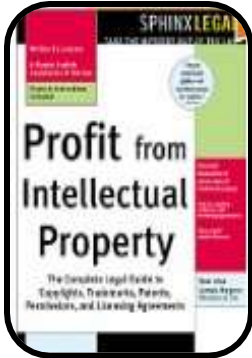
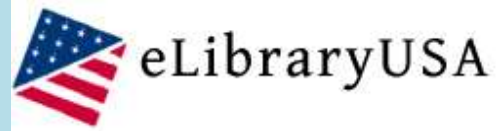
by Roger D. Blair, Thomas F. Cotter. Cambridge University Press, 2005



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<http://elibraryusa.state.gov>

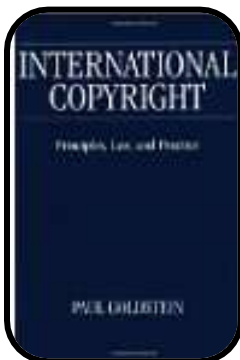
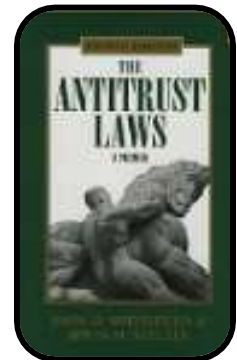


Profit from Intellectual Property : The Complete Legal Guide to Copyrights, Trademarks, Patents, Permissions and Licensing Agreements

by Ron Idra and James L. Rogers. Sourcebooks, Incorporated, 2003.

Antitrust Laws : A Primer

by John Shenefield, Irwin M. Stelzer. American Enterprise Institute for Public Policy Research, 2001.



International Copyright: Principles, Law, and Practice

by Paul Goldstein. Oxford University Press, 2001.

Hot Property: The Stealing of Ideas in an Age of Globalization

by Pat Choate. Alfred A. Knopf Incorporated, 2005.

